IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2665 OF 2007

Smt. Sarita Vishnu Kamble ..Applicant
Vs.
Mr. Vishnu Yallappa Kamble and ors. ..Respondents

Mr. M.S. Ahmed for applicant.
Mr. A.S. Shitole, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : August 14, 2007.

P.C.:

1. Heard. The parties were married on 29/4/2004. However, it appears that on 13/10/2005 the applicant-wife filed a complaint with the Antop Hill Police Station against the respondent-husband and his family members for the offences punishable under Section 498-A and 406 read with Section 34 of IPC and the said complaint came to be registered as C.R. No.278 of 2005 and on filing of the charge-sheet it was registered as C.C. No.326/PW/2006 before the learned Metropolitan Magistrate, 11th Court, Kurla, Mumbai.

2. While the complaint was pending, the applicant-wife and the respondent no.1-husband approached the Family Court at Bandra in Petition

No.A-269 of 2006 for divorce by consent and the said petition was allowed on 8/12/2006 thereby granting a decree of divorce by consent. The applicant-wife and the respondent no.1-husband are now separated and they are living their own life. The applicant-wife, therefore, prays for quashing of the complaint she had filed.

3. In view of the law laid down by the Apex Court in the case of B.S. Joshi & ors. vs. State of Haryana and anr. [2003 SCC (Cri) 848], the prayer made by the applicant-wife deserves to be accepted and hence the proceedings in C.C. No.326/PW/2006 presently pending before the learned Metropolitan Magistrate, 11th Court, Kurla, Mumbai are hereby quashed and set aside under the inherent powers of this court under Section 482 of Cr.P.C.

4. Application is allowed accordingly.

(B.H. Marlapalle,J.)